

Homestead

Pyle & Dellinger, PL

Your home is your castle. Florida law offers special benefits to people who own and live in their homes, and to their families. The homestead protection in Florida is in some ways stronger than the protection of homes in other states.

One type of benefit a homestead owner receives is the homestead real property tax exemption, whereby the assessed value of a home is reduced by \$25,000 before the tax is assessed. The Save Our Homes law also results in an annual cap on the value of homestead property for tax purposes.

Another unique feature of homestead is the constitutional provision protecting homestead for spouses of a living homeowner. This provision requires a spouse to join in a deed or mortgage of homestead property even if the spouse is not an owner.

Another benefit of homestead in Florida is protection from creditors, although the U.S. Congress and federal bankruptcy courts have attempted to reduce this protection. Thus, a judgment holder other than the mortgagee can collect on other non-exempt assets, but not the homestead.

The Florida Constitution also provides that if a decedent leaves a spouse and minor child, the decedent cannot leave the home to anybody by will or trust. If there is no minor child, the decedent can leave the property to the surviving spouse, but if he or she has not done so, the property passes automatically to the spouse for life, and to the decedent's children after the spouse dies. This law also provides that if a decedent with no spouse or minor child names family members of any level as beneficiaries, the property passes directly to those beneficiaries free of the claims of creditors.

The homestead is also considered an exempt asset when a nursing home resident is applying for Medicaid. So long as the home is not rented, even if the person can never realistically return to the home, the homestead tax exemption and all exemptions remain in place.